

# **EXHIBIT A**



ROPES & GRAY LLP

ONE INTERNATIONAL PLACE BOSTON, MA 02110-2624 617-951-7000 F 617-951-7050

BOSTON NEW YORK PALO ALTO SAN FRANCISCO WASHINGTON, DC www.ropesgray.com



Apr 12 2006  
5:30PM

April 12, 2006

Eric P. Christofferson  
(617) 951-7976  
eric.christofferson@ropesgray.com

**BY FIRST CLASS MAIL**

Thomas M. Sobol, Esq.  
Hagens Berman Sobol Shapiro LLP  
One Main Street, 4th Floor  
Cambridge, MA 02142

Re: In re Pharmaceutical Industry Average Wholesale Price Litig., MDL 1456

Dear Tom:

On behalf of Warrick Pharmaceuticals Corporation ("Warrick"), we are enclosing and serving upon your client(s) a notice of the deposition of Harvey Weintraub. As you will see, the deposition is scheduled for June 12-16, 2006, in Madison, New Jersey, and the notice provides for, among other things, recording by video. We hope to be in a position to make videoconferencing available for those counsel who wish to participate from another location. Mr. Weintraub is now 77 years old; he has a skeletal problem that prevents him from sitting for extended periods without pain; and he has Parkinson's disease. In light of Mr. Weintraub's age and health, the deposition will be conducted each day from 9 a.m. to 1 p.m. EST.

Because of Mr. Weintraub's age and health, Warrick also does not know whether he will be available in the future as a witness. Accordingly, we intend to preserve his testimony through this deposition. We are noticing this deposition in numerous pending AWP litigations against Warrick, including your cases, and invite you to attend and cross-examine Mr. Weintraub.

We understand that you already have, or have access to, documents produced by Warrick in the litigation brought against Warrick by Texas, *State of Texas v. Dey, Inc., et al.*, Cause No. GV002327 (53<sup>rd</sup> Judicial Dist., Travis County, Texas). If this is not the case, we will make such documents available to you for purposes of this deposition. Furthermore, as Mr. Weintraub has been deposed nine times before in AWP cases, we will make those transcripts and exhibits available to you for the purpose of this deposition, and may also make other documents available for this purpose.

Thomas M. Sobol, Esq.

- 2 -

April 12, 2006

If you have further questions regarding arrangements for this deposition, we ask that you kindly direct them to my attention.

Very truly yours,

A handwritten signature in cursive script, reading "Eric Christofferson" followed by the initials "(AW)" in parentheses.

Eric P. Christofferson

Enclosure

cc: All Counsel of Record (via Lexis File & Serve)

Apr 12 2006  
5:30PM

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION

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MDL No. 1456

Civil Action No. 01-12257-PBS

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THIS DOCUMENT RELATES TO:  
ALL ACTIONS

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Judge Patti B. Saris

Chief Magistrate Judge Marianne B. Bowler

**NOTICE OF DEPOSITION**

PLEASE TAKE NOTICE that, pursuant to Rule 30 of the Federal Rules of Civil Procedure, Warrick Pharmaceuticals Corporation, by its attorneys, will take the deposition of Harvey Weintraub in the above-captioned case. This deposition shall take place before a notary public, or any other office authorized to administer oaths, at Schering-Plough Corporation, 1 Giralda Farms in Madison, New Jersey, on June 12-16, 2006, beginning each day at 9:00am and concluding each day at 1:00pm. Such deposition will be recorded by stenographic, audio, and/or video means.

The deposition is being taken for use at trial and for such other purposes as are permitted under the Federal Rules of Civil Procedure and court order.

By attorneys,

/s/ Eric P. Christofferson

John T. Montgomery (BBO#352220)

Steven A. Kaufman (BBO#262230)

Eric P. Christofferson (BBO#654087)

Ropes & Gray LLP

One International Place

Boston, Massachusetts 02110-2624

(617) 951-7000

*Attorneys for Schering-Plough Corporation and  
Warrick Pharmaceuticals Corporation*

Dated: April 12, 2006

**CERTIFICATE OF SERVICE**

I hereby certify that on April 12, 2006, I caused a true and correct copy of the foregoing to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL 1456.

/s/ Eric P. Christofferson

Eric P. Christofferson

# **EXHIBIT B**



**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION

---

) MDL No. 1456

) Civil Action No. 01-12257-PBS

---

THIS DOCUMENT RELATES TO:  
ALL ACTIONS

---

) Judge Patti B. Saris

) Chief Magistrate Judge Marianne B. Bowler

**AMENDED NOTICE OF DEPOSITION**

PLEASE TAKE NOTICE that, pursuant to Rule 30 of the Federal Rules of Civil Procedure, Warrick Pharmaceuticals Corporation, by its attorneys, will take the deposition of Harvey Weintraub in the above-captioned case. This deposition shall take place before a notary public, or any other office authorized to administer oaths, at Schering-Plough Corporation, 1 Giralda Farms in Madison, New Jersey, on July 10-14, 2006, beginning each day at 9:00am and concluding each day at 1:00pm. Such deposition will be recorded by stenographic, audio, and/or video means.

The deposition is being taken for use at trial and for such other purposes as are permitted under the Federal Rules of Civil Procedure and court order.



By attorneys,

/s/ Eric P. Christofferson

John T. Montgomery (BBO#352220)

Steven A. Kaufman (BBO#262230)

Eric P. Christofferson (BBO#654087)

Ropes & Gray LLP

One International Place

Boston, Massachusetts 02110-2624

(617) 951-7000

*Attorneys for Schering-Plough Corporation and  
Warrick Pharmaceuticals Corporation*

Dated: May 18, 2006

**CERTIFICATE OF SERVICE**

I hereby certify that on May 18, 2006, I caused a true and correct copy of the foregoing to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL 1456.

/s/ Eric P. Christofferson  
Eric P. Christofferson

# **EXHIBIT C**



ROPES & GRAY LLP

ONE METRO CENTER 700 12TH STREET, NW SUITE 900 WASHINGTON, DC 20005-3948 202-508-4600 F 202-508-4650  
BOSTON NEW YORK PALO ALTO SAN FRANCISCO WASHINGTON, DC [www.ropesgray.com](http://www.ropesgray.com)

June 27, 2006

J. Steven Baughman  
202-508-4606  
202-508-4650 fax  
[Steven.Baughman@ropesgray.com](mailto:Steven.Baughman@ropesgray.com)

**BY FACSIMILE**

Michael Winget-Hernandez, Esq.  
Winget-Hernandez, LLC  
3112 Windsor Road  
Suite 228  
Austin, Texas 78703

Re: Deposition of Harvey Weintraub

Dear Michael:

This is to confirm that, in order to accommodate the requests of various plaintiffs for additional time to prepare for the deposition of Harvey Weintraub, which is now noticed for July 10-14, 2006, and in light of those plaintiffs' agreement not to seek further postponement of that deposition if it is moved to September 18-22, 2006, we have rescheduled and will shortly re-notice the deposition for September 18-22, 2006 in all cases where it is noticed.

Sincerely,

A handwritten signature in black ink, appearing to be "J. Steven Baughman", written over a horizontal line.

J. Steven Baughman

cc: Counsel for plaintiffs as listed  
on the attached transmittal (by facsimile)



ROPES & GRAY LLP

ONE METRO CENTER 700 12TH STREET, NW SUITE 900 WASHINGTON, DC 20005-3948 202-508-4600 F 202-508-4650  
BOSTON NEW YORK PALO ALTO SAN FRANCISCO WASHINGTON, DC www.ropesgray.com

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**IMPORTANT:** PLEASE DELIVER THIS DOCUMENT IMMEDIATELY!

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL: 202-508-4600

TOTAL NUMBER OF PAGES INCLUDING THIS TRANSMITTAL LETTER: 4

<b><u>Name</u></b>	<b><u>Fax Number</u></b>	<b><u>Phone Number</u></b>
To: Michael Winget-Hernandez, Esq.	(512) 697-0080	
John P. Fisher, Esq.	(619) 688-4200	
Joanne M. Cicala, Esq.	(212) 751-2540	
Melvin I. Weiss, Esq.	(212) 273-4396	
Thomas M. Sobol, Esq.	(617) 482-3003	
David S. Nalven, Esq.		
Jere L. Beasley, Esq.	(334) 954-7555	
W. Daniel (Dee) Miles, III, Esq.		
Clinton Carter, Esq.		
Roger Bates, Esq.	(205) 397-1300	
Robert B. Carey, Esq.	(602) 840-3012	
Steve W. Berman, Esq.		
Sean R. Matt, Esq.		
Larry J. Crown, Esq.	(602) 277-5595	
Bradford J. Phelps, Esq.	(501) 682-8118	
James E. Miller, Esq.	(860) 526-1120	

Page 1 of 3

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**PLEASE COMPLETE WHEN SUBMITTING TO FAX DEPARTMENT**

Date: June 27, 2006

File Symbol: SPLN.045

Submitted By: J. Steven Baughman

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ROPES & GRAY LLP

Mark S. Thomas, Esq.	(850) 487-9475
James J. Breen, Esq.	(954) 874-1705
Rick J. Eichor, Esq.	(808) 538-1113
Charles Barnhill, Jr., Esq.	(608) 255-5380
William Dixon, Esq.	
Elizabeth J. Eberle, Esq.	
Robert S. Libman, Esq.	(312) 751-0438
George F. Galland, Jr., Esq.	
Benjamin C. Weinberg, Esq.	(312) 814-5024
Paul J. Gaynor, Esq.	
David F. Buyase, Esq.	
C. David Johnstone, Esq.	(502) 573-7150
Janet M. Graham, Esq.	
Todd E. Leatherman, Esq.	
Robert S. Jones, Esq.	
Pamela J. Murphy, Esq.	
Paula J. Holbrook, Esq.	
P. Jeffrey Archibald, Esq.	(608) 661-0067
Richard C. Heidlage, Esq.	(617) 727-2008
Governor Musgrove, Esq.	(601) 856-7626
Jan Adams, Esq.	(314) 340-7957
Jacqueline Sailer, Esq.	(212) 682-1892
Mark B. Kramer, Esq.	(973) 847-6005

ROPES & GRAY LLP

Donald E. Haviland, Jr., Esq.	(215) 772-1359
Paul J. Pennock, Esq.	(212) 344-5461
Daniel C. Burke, Esq.	
Jeffrey N. Miller, Esq.	(518) 377-2247
James E. Miller, Esq.	(860) 526-1120
Stan Chesley, Esq.	(513) 381-2375
Robert Heuck, Esq.	
Peggy A. Lautenschlager, Esq.	(608) 261-7991
Michael R. Bauer, Esq.	
Cynthia R. Hirsch, Esq.	
Frank D. Remington, Esq.	
Mark Edelson, Esq.	(215) 230-8735
Edward A. Wallace, Esq.	(312) 346-0022
Elizabeth Fegan Hartweg, Esq.	
Jeffrey L. Kodroff, Esq.	(215) 496-6611

From:

Page 3 of 3

Comments:

# **EXHIBIT D**



**From:** Steve Berman [mailto:Steve@hbsslaw.com]  
**Sent:** Wednesday, May 03, 2006 9:29 AM  
**To:** Baughman, J. Steven  
**Cc:** Lauchie-Mitchell, Tina E.; AWP MDL Committee Short  
**Subject:** RE: Arizona AWP - Harvey Weintraub Deposition

we will be opposing the taking of this dep in this case and every case we are counsel in

Steve W. Berman  
Hagens Berman Sobol Shapiro LLP  
1301 Fifth Avenue  
Suite 2900  
Seattle WA 98101  
206-224-9320

---

**From:** Baughman, J. Steven [mailto:Steven.Baughman@ropesgray.com]  
**Sent:** Tuesday, May 02, 2006 2:10 PM  
**To:** Steve Berman  
**Cc:** Lauchie-Mitchell, Tina E.  
**Subject:** Arizona AWP - Harvey Weintraub Deposition

As you know, we have moved the Court to notice the deposition of Harvey Weintraub in the Arizona litigation, as it has been noticed in other pending cases, for June 12-16, 2006. We have, as indicated in our prior correspondence, offered to make available to you various material, such as Mr. Weintraub's prior deposition transcripts and exhibits. As you will understand, such material includes information that is highly confidential.

Despite plaintiff's refusal to stipulate to the noticing of Mr. Weintraub's deposition in advance of a Rule 26(f) conference, and although there is not yet a protective order in place in this matter governing the treatment of confidential material, we would be willing under the circumstances to make such material available to you in preparation for Mr. Weintraub's deposition if plaintiff will agree to treat such material (and the transcript and exhibits in Mr. Weintraub's upcoming deposition) as highly confidential and for attorneys'-eyes-only, and will use this material solely for purposes of this litigation and will not share such material with any other entity, pending entry of a protective order in this matter governing its treatment going forward. (This is without waiver of or prejudice to any of Warrick's rights, including without limitation Warrick's rights to relief in connection with pending or future motions that may affect the scope of permissible discovery in this action. In addition, this agreement would not obviate any existing confidentiality obligations.)

We are prepared to begin forwarding confidential material to you upon your confirmation, in reply to this email, of plaintiff's agreement. Please let us know if you have any questions, or if you wish to specify an address other than your office to which such material should be sent.

Thank you,  
Steve Baughman

# **EXHIBIT E**

Docket No. X07 CV-03-0083296-S (CLD) : SUPERIOR COURT  
STATE OF CONNECTICUT : COMPLEX LITIGATION  
DOCKET at TOLLAND  
v. :  
DEY INC., ET AL. : April 25, 2006

**PLAINTIFF'S OBJECTIONS TO NOTICE OF DEPOSITION  
OF HARVEY WEINTRAUB DATED APRIL 10, 2006**

Pursuant to the Connecticut Practice Book § 13-31(c), the State of Connecticut (the "State" or "Plaintiff"), by and through its undersigned counsel, hereby objects to the Notice of Deposition of Harvey Weintraub ("Mr. Weintraub") dated April 10, 2006 ("Notice"), served upon it by Defendants, Warrick Pharmaceuticals Corporation, Schering Corporation and Schering-Plough Corporation (collectively, "Defendants"), in its entirety, for the following reasons:

**OBJECTIONS**

1. The Notice seeks the deposition of a fact witness during the period June 12 to June 16, 2005, more than six months beyond the December 3, 2005 cut-off for fact depositions set by the Court.
2. The Notice fails to provide an appropriate location for Mr. Weintraub's deposition under Connecticut rules. The Notice seeks to conduct the deposition outside the State of Connecticut, at Defendants' offices, in New Jersey. Conducting the

deposition at this location will unfairly impose expense, inconvenience, and burden on the State.

3. According to a letter provided by Defendants' counsel that accompanied the Notice, dated April 10, 2006 ("Counsel's Letter"), the Notice seeks to conduct the deposition over a period of five days, but to limit examination to four hours of questioning per day, at a location distant from the offices of counsel for the State. This limitation will unfairly impose additional needless expense, inconvenience, and burden on Plaintiff.

4. The Notice fails to provide any documentary or testimonial support for the claim, set forth in Counsel's Letter, that "[b]ecause of Mr. Weintraub's age and health, Warrick does not know whether he will be available in the future as a witness." In particular, the Defendants have failed to provide the evidentiary materials ordinarily submitted to support such an extraordinary request, to wit (1) Mr. Weintraub's medical records, (2) the physician opinions upon which the Defendants rely for their position that Warrick does not know whether Mr. Weintraub will be available in the future as a witness, or (3) any statements by Mr. Weintraub or others that Warrick would submit to the Court to support its position.

5. The Notice fails to establish any need for the deposition. Mr. Weintraub testified in a deposition admissible in this action taken on August 25, 2005, less than

one year ago. Under Connecticut law, in the trial of a civil action, a deposition can be used by a party when "the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment," or if "the witness is dead," as if the witness were present and testifying at trial." *See* Practice Book § 13-31(a), 13-31(a)(4)(A) and (C).

6. The Notice was not properly served in accordance with Connecticut rules. *See* Practice Book § 13-27(a).

STATE OF CONNECTICUT

RICHARD BLUMENTHAL  
ATTORNEY GENERAL

By: Karen M. Leser  
James E. Miller  
Patrick A. Klingman  
Karen M. Leser  
Shepherd Finkelman Miller & Shah, LLC  
65 Main Street  
Chester, Connecticut 06412  
(860) 526-1100  
(860) 526-1120 (facsimile)  
Firm Juris No. 423085

Robert B. Teitelman  
Clare E. Kindall  
Assistant Attorneys General  
55 Elm Street, P.O. Box 120  
Hartford, Connecticut 06141-0120  
(860) 808-5355  
(860) 808-5391 (facsimile)

Thomas M. Sobol  
David S. Nalven  
Hugh McNeely  
Hagens Berman Sobol Shapiro, LLP  
One Main Street 4th Floor  
Cambridge, Massachusetts 02142  
(617) 482-3700  
(617) 482-3003 (facsimile)

Steve W. Berman  
Hagens Berman Sobol Shapiro, LLP  
1301 Fifth Avenue Suite 2900  
Seattle, Washington 98101  
(206) 623-7292  
(206) 623-0594 (facsimile)

Jeffrey L. Kodroff  
Jeffrey J. Corrigan  
John A. Macoretta  
Spector, Roseman & Kodroff, P.C.  
1818 Market Street Suite 2500  
Philadelphia, Pennsylvania 19103  
(215) 496-0300  
(215) 496-6611 (facsimile)

Scott R. Shepherd  
Natalie Finkelman Bennett  
Douglas P. Dehler  
Shepherd Finkelman Miller & Shah, LLC  
35 E. State Street  
Media, Pennsylvania 19063  
(610) 891-9880  
(610) 891-9883 (facsimile)

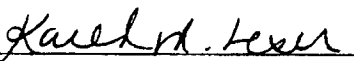
Its Attorneys

**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the State of Connecticut's foregoing Objections to Notice of Deposition dated April 25, 2006 were served by electronic mail and first-class mail, postage prepaid, on April 25, 2006, upon the following counsel of record:

Andrew P. Gaillard  
Amy T. Maas  
Day Berry & Howard LLP  
One Canterbury Green  
Stamford, CT 06901

John T. Montgomery  
Robert J. Kovacev  
Emiley E. Zalesky  
Ropes & Gray LLP  
One International Place  
Boston, MA 02110

  
Karen Leser



# **EXHIBIT F**

**FILED UNDER SEAL**

# **EXHIBIT G**

**FILED UNDER SEAL**